

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALEXI FERNANDEZ VASQUEZ,

Plaintiff,

- against -

UNITED STATES CUSTOMS SERVICE, et. al,

ORDER

02 CV 2561 (RJD)

Defendant.

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DEARIE, District Judge.

This Court has reviewed both the Report & Recommendation of Magistrate Judge Roanne L. Mann, dated July 11, 2005, and plaintiff's opposition.

Plaintiff states that he failed to plead with more specificity because the defense did not comply with discovery. Pl. Obj. at 3. After reviewing the record, the Court readily concludes that plaintiff had ample opportunity to conduct discovery or request the court's intervention and failed to do so. Counsel's claim to the contrary is unsupported in the record. Plaintiff never claimed that he needed discovery in order to be able to plead with more specificity. In fact, at the proceeding before Judge Mann on August 5, 2004, he made a factual proffer and when asked why the facts were not contained in the complaint, he responded that he would "repair the complaint to put in more specifics." See Tr. at 7. Plaintiff never did so. See Report & Recommendation at 6.

The recommendation is adopted without qualification. The case is dismissed with prejudice. The Clerk of the Court is ordered to close this case.

SO ORDERED.

Dated: Brooklyn, New York
 August 10, 2005

RAYMOND J. DEARIE
United States District Judge